IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Rev. No.873 of 2007
Date of Decision:- 14.11.2007

Surindera Rani ....Petitioner(s)

through
Mr.Sherry Singla, Advocate

vs.

Smt.Kiran Bala & another ....Respondent(s)

through
Mr.Rajesh Bhardwaj, DAG, Punjab.
Mr.Ashu Kaushik, Advocate.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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1) Whether Reporters of the local papers may be allowed to see the judgment?
2) To be referred to the Reporters or not?
3) Whether the judgment should be reported in the Digest?

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SURYA KANT, J. (ORAL)

This criminal revision petition is directed against the judgment and order dated 11.7.2006 passed by the learned Judicial Magistrate, Ist Class, Patiala whereby the petitioner was held guilty of an offence under Section 138 of the Negotiable Instruments Act and was sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.3,000/-, in default whereof to further undergo rigorous imprisonment for 15 days, as well as against the judgment dated 7.5.2007 passed by the Additional Sessions Judge, Patiala whereby the petitioner's appeal against the above-stated judgment and order of her conviction and sentence, has been dismissed.

As may be noticed from the impugned judgments, it has been concurrently held that the petitioner had given cheque No.140432 dated

8.4.2000 for an amount of Rs.1,50,000/- in favour of the respondent-complainant drawn at Punjab & Sind Bank which was, however, dishonored by the Bank with the remarks "funds insufficient and Drawer's signatures differs with the specimen on record."

During the pendency of this criminal revision petition, however, certain subsequent events have taken place. The petitioner has entered into a compromise with the respondent-complainant and in terms thereof, the entire amount has been paid to the complainant. In this manner, the debt liability has been completely discharged by the petitioner.

In response to the notice of motion, learned counsel for the respondent-complainant has put in appearance and has acknowledged the affidavit dated 17/21.5.2007 given by the respondent-complainant wherein she has admitted receipt of the due amount from the petitioner and has desired not to pursue the criminal proceedings initiated under Section 138 of the Negotiable Instruments Act.

The petitioner is a widow aged about 47 years. It is stated at the bar and not disputed by learned counsel for the respondent-complainant that the petitioner is also required to look after her only female child.

After hearing learned counsel for the parties and having regard to the fact that the petitioner has fully discharged her debt liability and keeping in view the mitigating circumstances highlighted during the course of hearing and following the principles laid down by the Apex Court in the case of **Sailesh Shyam Parsekar** vs. **Baban alias Vishwanath S. Godge and another**, 2005(4) SCC 162, I am of the considered view that it is a fit case for this Court to invoke powers under Section 147 of the Negotiable Instruments Act, 1881 and compound the offence under challenge.

Ordered accordingly.

As a necessary consequence thereto, both the judgments passed by the Courts below are set aside and the petitioner is acquitted of the charge. The complaint filed by the respondent-complainant under Section 138 of the Negotiable Instruments Act, 1881 is accordingly disposed of as having become infructuous. Bail bonds furnished by the petitioner at the time of her release on bail stand discharged.

November 14, 2007 **(SURYA KANT)**
poonam **JUDGE**